DAVID R. EBERHART (S.B. #195474)
deberhart@omm.com
SHARON M. BUNZEL (S.B. #181609)
sbunzel@omm.com
COLLEEN M. KENNEDY (S.B. #227107)
ckennedy@omm.com
O'MELVENY & MYERS LLP
Two Embarcadero Center, 28th Floor
San Francisco, CA 94111
Telephone: (415) 984-8700
Facsimile: (415) 984-8701

Attorneys for Plaintiff eBay Inc.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

EBAY INC.,

Plaintiff,

v.

DIGITAL POINT SOLUTIONS, INC., SHAWN HOGAN, KESSLER'S FLYING CIRCUS, THUNDERWOOD HOLDINGS, INC., TODD DUNNING, DUNNING ENTERPRISE, INC., BRIAN DUNNING, BRIANDUNNING.COM, and DOES 1-20,

Defendants.

Case No. C 08-04052 JF

DECLARATION OF SHARON M. BUNZEL IN SUPPORT OF EBAY INC.'S ADMINISTRATIVE MOTION FOR LEAVE TO EXCEED PAGE LIMIT FOR CONSOLIDATED OPPOSITION TO DEFENDANTS' MOTIONS TO DISMISS AND/OR TRANSFER

[N.D. CAL. L.R. 7-11]

Dockets.Justia.com

I, Sharon M. Bunzel, declare as follows:

1. I am a member of the Bar of the State of California and a partner with the law firm of O'Melveny & Myers LLP, counsel for eBay Inc. in this matter. I submit this Declaration in support of eBay's Administrative Motion for Leave to Exceed the Page Limit for its Consolidated Opposition to Defendants' Motions to Dismiss and/or Transfer. I have personal knowledge of the facts set forth in this declaration and, if called to testify as a witness, could and would do so competently.

2. eBay filed its Second Amended Complaint in this matter on March 26, 2009.

3. Since that time, Defendants have filed the following four Motions to Dismiss and/or Transfer that Complaint: a Motion to Dismiss the Second Amended Complaint by Defendants Kessler's Flying Circus, Thunderwood Holdings, Inc., Brian Dunning and BrianDunning.com, filed on April 27, 2009; a Motion to Dismiss the Second Amended Complaint and to Transfer Venue by Defendants Todd Dunning and Dunning Enterprise, Inc., filed on April 27, 2009; a Motion to Dismiss the Second Amended Complaint by Defendants Digital Point Solutions, Inc. and Shawn Hogan, filed on April 27, 2009; and a Motion to Transfer by Defendants Digital Point Solutions, Inc. and Shawn Hogan, filed on May 22, 2009. Each of these motions was set for hearing on June 26, 2009, and all four oppositions are therefore due to be filed on June 5, 2009, one week from today.

4. On Wednesday, May 27, 2009, I sent an email to counsel for Defendants requesting that they stipulate to extend the page limit for eBay's consolidated opposition to the pending Motions. My email attached a draft stipulation stating that eBay would be allowed ten extra pages for its consolidated opposition. A true and correct copy of that email and accompanying stipulation is attached as **Exhibit A** hereto.

5. Leo Presiado, counsel for Defendants Thunderwood Holdings, Inc., Brian Dunning and BrianDunning.com, responded by email on May 28, 2009 that his clients were unwilling to stipulate to a ten-page extension of the page limit. A true and correct

copy of that email is attached as **Exhibit B** hereto.

6. On the evening of May 28, 2009, I sent another email to counsel for Defendants requesting that those who had not responded to eBay's request for stipulation in this matter do so by noon today, May 29, 2009. A true and correct copy of that email is attached as **Exhibit C** hereto.

7. Patrick McClellan, counsel for Defendant Kessler's Flying Circus, responded by email on May 29, 2009 that his client was unwilling to stipulate to the extension. A true and correct copy of that email is attached as **Exhibit D** hereto.

8. Stewart Foreman, counsel for Defendants Todd Dunning and Dunning Enterprise, Inc., responded by email on May 29, 2009 that his clients were unwilling to stipulate to the extension. A true and correct copy of that email is attached as **Exhibit E** hereto.

9. Ross Campbell, counsel for Defendants Digital Point Solutions, Inc. and Shawn Hogan, responded by email on May 29, 2009 that his clients were unwilling to stipulate to the extension. A true and correct copy of that email is attached as **Exhibit F** hereto.

I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct. Signed on this 29th day of May, 2009 in San Francisco, California.

____/s/ Sharon M. Bunzel________
Sharon M. Bunzel